

IN THE SUPREME COURT OF THE STATE OF DELAWARE

SARAH REINBOLD,)
) No. 257, 2006
Plaintiff Below,)
Appellant,) Court Below: Superior Court of the
) State of Delaware in and for
v.) New Castle County
)
PHILIP ROONEY,) C.A. No. 05C-01-272
)
Defendant Below,)
Appellee.)

Submitted: January 10, 2007

Decided: February 5, 2007

Before **STEELE**, Chief Justice, **BERGER** and **RIDGELY**, Justices.

ORDER

This 5th day of January, 2007, it appears to the Court that:

(1) Plaintiff-appellant Sarah Reinbold appeals a Superior Court judge's grant of summary judgment in favor of defendant-appellee Philip Rooney in this civil action for negligence. In her complaint, Reinbold sought damages against Rooney for pain and suffering as a result of a shelf falling on her while sleeping at Ann Miller's home (Rooney's mother). Reinbold alleges that Rooney negligently assembled and installed the shelf. Rooney moved for summary judgment under the Delaware Guest Statute.¹ Reinbold contends that the trial judge committed legal error when she ruled that Rooney was an "occupier" exculpated by the Delaware

¹ 25 Del. C. § 1501

Guest Statute. We find no merit in her argument and affirm the judgment of the Superior Court.

(2) On December 14, 2003, Reinbold went Christmas shopping with her boyfriend, Rooney, and his family. After shopping, Reinbold joined Rooney's family at their home in Newark, Delaware for an evening of wrapping presents and drinking wine. Although Ann Miller owned the house, Rooney had been living there since he graduated from college in May 2003. Rooney slept in the basement bedroom, and he paid \$100 per month "for eating there [and] sleeping there."

(3) At the end of the evening, Miller invited Reinbold to spend the night at her house. Reinbold accepted Miller's invitation and slept in the basement with Rooney. During the night, two shelves, mounted above the bed, fell from the wall. One shelf struck Reinbold in the eye. The shelf system consisted of two metal brackets attached to the wall and slots with inserted shelf brackets. Rooney had noticed before the accident that one shelf was "kind of slanted downward," and Reinbold claims that Rooney placed several objects on the brackets so that the shelves would rest evenly. Rooney stated that the shelves were installed in June 2003 and had never fallen before the incident on December 14, 2003.

(4) As a result of the accident, Reinbold suffered severe and permanent physical injuries to her right eye. Reinbold filed suit against Rooney claiming pain

and suffering and medical expenses resulting from Rooney's negligence. The trial judge granted Rooney summary judgment.

(5) Reinbold argues that the trial judge committed legal error when she held that Rooney was an "occupier" under the Guest Statute. This Court reviews the grant of summary judgment *de novo* to determine whether the undisputed facts, viewed in light most favorable to Reinbold, entitles Rooney to summary judgment as a matter of law.

(6) The Guest Statute provides:

No person who enters onto private residential or farm premises owned or occupied by another person, as a guest without payment or as a trespasser, shall have a cause of action against the owner or occupier of such premises for any injuries or damages sustained by such person while on the premises unless such accident was intentional on the part of the owner or occupier was caused by the willful or wanton disregard of the rights of others.

The legislature intended to protect the landowner or legal possessor from suits by guests based on simple acts of negligence.² The issue regarding whether Rooney is entitled to protection under the Guest Statute turns on the meaning of the word "occupier." If Rooney is deemed to be an occupier of the premises, then Reinbold can only recover on a showing of willful or wanton conduct. Reinbold does not allege that Rooney acted willfully or wantonly.

² *Stratford Apts, Inc. v. Fleming*, 305 A.2d 624, 626 (Del. 1973); See also *See O'Brien v. Runnels*, 1985 WL 636432, at *1 (Del. Super. 1985)

(7) Reinbold first contends that Rooney’s status as an occupier is a question of fact for a jury to decide. However, there are no disputed facts and the determination of whether Reinbold was an “occupier” is purely a question of law.³

(8) The term “occupier” has an “accepted legal meaning which encompasses owners who are in actual possession of the property. The word would also include possessors, tenants, and landlords who physically control and exercise dominion over identifiable real interests.”⁴ Dominion and control, however, is not, as Reinbold suggests, the exclusive test for determining whether someone qualifies as an occupier under the guest statute.⁵ Residency, even if temporary, combined with permissive free use of the property satisfies the definition of occupier.⁶ For example, in *O’Brien v. Runnels*, a Superior Court judge held that a 15-year-old boy, temporarily residing with his mother, qualified as an occupier for purposes of the guest statute.⁷ Moreover, in *Smith v. Henderson*,

³ See e.g. *Stratford Apts, Inc*, 305 A.2d 624; See also *O’Brien*, 1985 WL 636432.

⁴ *Stratford Apts, Inc*, 305 A.2d at 626 (citing *Urbanski v. Walker*, 281 A.2d 491, 492)(Del. 1971)).

⁵ See *O’Brien*, 1985 WL 636432 at *1 (“The word “occupier” in its legal application is a word of varied meaning.”).

⁶ See *Id.*

⁷ *Id.*

we held that an occupier includes “a person rightfully in possession of the property.”⁸

(9) After consideration of the record, we hold that Rooney qualifies as an “occupier” under the guest statute. Rooney was living with his mother until he could save money to buy a home and was contributing \$100 per month for the household expenses. This was Rooney’s only residence, and he was responsible for the daily upkeep of his room. Moreover, his mother permitted him free use of the premises. The trial judge did not err by finding that Rooney was an “occupier” under the guest statute. Accordingly, we affirm the trial judge’s grant of summary judgment.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

⁸ 737 A.2d 531 (Del. 1999) (TABLE) (In *Smith*, a security guard was attacked by a dog owned by the Smith’s husband while attempting to deliver a message late one night. Although the home was owned by a third party and leased to Smith’s mother-in-law, Smith was still protected under the guest statute because she was “rightfully in possession of the property.”).